

Roderick M. Thompson (State Bar No. 96192)
rthompson@fbm.com
Erik C. Olson (State Bar No. 260452)
eolson@fbm.com
Farella Braun + Martel LLP
235 Montgomery Street, 17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400
Facsimile: (415) 954-4480

Attorneys for Third Party
DELL INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

Case No. 5:14-cv-05344-BLF (NMC)

**DECLARATION OF RODERICK M.
THOMPSON ON BEHALF OF THIRD
PARTY DELL INC. IN SUPPORT OF
ARISTA NETWORK, INC.'S
ADMINISTRATIVE MOTION TO FILE
DOCUMENTS UNDER SEAL (DKT. NO
612)**

Judge: Hon. Beth Labson Freeman

I, Roderick M. Thompson, declare as follows:

1. I am a partner with the firm Farella Braun + Martel LLP, counsel for non-party Dell Inc. ("Dell") with respect to the third-party subpoena served by defendant Arista Networks, Inc. ("Arista") on Dell in the above-captioned matter. I am a member in good standing of the State Bar of California and am admitted to practice before this Court. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I file this declaration in support of Arista's Administrative Motion to File Documents Under Seal (Dkt. No. 612), which moves the Court for an order to file under seal the following items related to non-party Dell:

a. Page 50, line 6 and Page 54, line 12 of Exhibit 33 to the Declaration of Ryan Wong (Excerpts from the Transcript of the 30(b)(6) Deposition of Dell, whose corporate witness was Gavin Cato) (“Wong Decl. Ex. 33”) (Dkt. Nos. 612-29, 612-30).

3. In this declaration, I explain why this information is sealable pursuant to Civil Local Rule 79-5 and provide additional facts in support of Arista’s Administrative Motion to File Documents Under Seal to the extent that the administrative motion pertains to Dell.

4. Specifically, the page and line numbers of Mr. Cato’s deposition transcript listed above reflects substantive discussion of the identity and specific technical requirements of a specific customer of Mr. Cato’s previous employer.

5. I defended Mr. Cato’s deposition in this action. During the deposition, when Arista’s counsel asked Mr. Cato to identify the specific customer of his previous employer (immediately prior to his joining Dell in 2013) that had specific requirements concerning certain CLI commands, I requested an opportunity to confer with Mr. Cato before he answered the question. After doing so, I specifically designated his response to Arista’s counsel’s question, including the identity of the customer, as highly confidential, attorney’s eyes only under the protective order. Wong. Decl. Ex. 33 at 47:15-49:21.

6. I understand that “compelling reasons” may exist to seal information in court filings that contain or discuss information about an entity’s confidential “business performance, structure, and finances that could be used to gain unfair business advantage against them,” *Schwartz v. Cook*, No. 15-cv-03347-BLF, 2016 WL 1301186, at *2 (N.D. Cal. Apr. 4, 2016), as well as confidential information about an entity’s “business practices, recruitment efforts, and discussions regarding potential partnerships with other product manufacturers,” *Koninklijke Philips N.V. v. Elec-Tech International Co., Ltd.*, No. 14-cv-02737-BLF, 2015 WL 581574, at *1-*2 (N.D. Cal. Feb. 10, 2015).

7. The identity of the customer identified by Mr. Cato during his deposition qualifies as confidential “business practices ... and discussions regarding potential partnerships.”

8. This confidential customer information has previously been filed under seal per the

1 Court's August 26, 2016 order (Dkt. 490 at 2).

2 9. For these reasons, there are compelling reasons to seal the identification of the
3 customer in the Court filings identified in paragraph 2 of this declaration.

4 Executed on November 14, 2016, at San Francisco, California.

5 I declare under penalty of perjury under the laws of the United States of America that the
6 foregoing is true and correct to the best of my knowledge.

7
8 /s/ Roderick M. Thompson
9 Roderick M. Thompson